

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 14th DAY OF SEPTEMBER 2009 AT 6:30 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

| | | |
|----------|---|----------------------------------|
| PRESENT: | Annette S. Perkins (arrived at 7:30 p.m.) | -Chair |
| | James D. Politis | -Vice Chair |
| | Mary W. Biggs | -Supervisors |
| | William H. Brown | |
| | Gary D. Creed | |
| | Doug Marrs | |
| | John A. Muffo | |
| | F. Craig Meadows | -County Administrator |
| | L. Carol Edmonds | -Assistant County Administrator |
| | Martin M. McMahon | -County Attorney |
| | Steve Sandy | -Planning Director |
| | Kevin Byrd | -Comprehensive Planner |
| | Ruth L. Richey | -Public Information Officer |
| | Vickie L. Swinney | -Secretary, Board of Supervisors |

CALL TO ORDER

The Vice-Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of an Public Body
1. Adjustment and Appeals Board
 2. Board of Zoning Appeals (BZA)
 3. NRV Development Corporation

The vote on the foregoing resolution was as follows:

| <u>AYE</u> | <u>NAY</u> | <u>ABSENT</u> |
|------------------|------------|--------------------|
| Gary D. Creed | None | Annette S. Perkins |
| William H. Brown | | |
| Mary W. Biggs | | |
| Doug Marrs | | |
| John A. Muffo | | |
| James D. Politis | | |

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

| <u>AYE</u> | <u>NAY</u> | <u>ABSENT</u> |
|------------------|------------|--------------------|
| William H. Brown | None | Annette S. Perkins |
| Mary W. Biggs | | |
| Doug Marrs | | |
| John A. Muffo | | |
| Gary D. Creed | | |
| James D. Politis | | |

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

Doug Marrs
Mary W. Biggs
John A. Muffo
Gary D. Creed
William H. Brown
James D. Politis

NAYS

None

ABSENT DURING VOTE

Annette S. Perkins

ABSENT DURING MEETING

Annette S. Perkins

INVOCATION

A moment of silence was lead by the Vice-Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATION

Resolution of Appreciation – L. Carol Edmonds

The Board of Supervisors presented a Resolution of Appreciation to L. Carol Edmonds, Assistant County Administrator, for serving as the Interim County Administrator from March – July 2009.

DELEGATION

**Virginia Department of Transportation **

David Clarke, VDOT Residency Administrator, updated the Board of Supervisors on the following road issues/concerns in Montgomery County:

- Mt. Pleasant Road (SR 639): VDOT has awarded the “Notice to Proceed” for Mt. Pleasant Road with an estimated completion date of November 15, 2009. There will be some disruption in traffic due to a retaining wall being constructed.

- Mt. Zion Road (SR 655): VDOT has scheduled Mt. Zion Road for paving with federal money starting at Brookfield Road to Keisters Branch Road.
- Woodrow Road (SR 644) Speed Study Request: The speed study for Woodrow Road is underway. Mr. Clarke believes there should not be a problem in reducing the speed on this road.
- Stanley Road (SR 667): This road is on the County's Revenue Sharing list. VDOT is working on the engineering and surveying. They estimate the advertisement date will be bid out in early 2010.

At this time Board members were given the opportunity to address any concerns they had with roads in the County.

Supervisor Politis requested the following:

- Laurel Ridge Mill Road (SR 617) is in need of restriping. Mr. Clarke replied that VDOT has changed the process for restriping of roads. Secondary roads have to meet certain criteria and traffic count in order to be stripped. He commented that VDOT's reevaluating some roads to determine if they qualify. He believes Laurel Ridge Mill Road meets the criteria.
- Brush Creek Road (SR 617) and Laurel Ridge Mill Road need trees trimmed.
- Union Valley Road (SR 669) – received a request from a farmer for signage to be installed along Union Valley Road to alert motorists of slow trucks/tractors.

The Board thanked Mr. Clarke for his time.

Supervisor Perkins arrived at 7:30 p.m.

Montgomery County Extension

Michelle Dickerson, Extension Agent, and Barry Robinson, Horticulture Agent, presented the quarterly report for Montgomery County Extension.

Michelle Dickerson reported on the 4-H program in Montgomery County. The 4-H Summer camp was held in July 2009, which was well attended with over 400 children from four counties (Floyd, Craig, Giles and Montgomery). There were 120 children from Montgomery County.

Five teens from Montgomery County attended the State 4-H Congress at Virginia Tech. All participated in the state presentation competition and one teen was inducted into the 4-H All Stars, the highest honor given in 4-H.

The County 4-H Fair was held at Sinkland Farm in Riner. The fair included a horse show, 4-H projects exhibits, livestock show, and small animal parade.

Barry Robinson reported he participated and/or gave leadership to various local and state meetings or training workshops. Numerous events were held including the Second Annual Eastern Montgomery County Tomato Festival, Third Annual NRV Green Home Seminar, and Kentland Farm Day. Several workshops were held, such as the Watershed Conservation and Rain Barrel workshop, Tree Planting class, Apple Grafting class, and Seed Propagation workshop.

Mr. Robinson distributed to the Board the first edition of “New River Valley Food Directory”, which is an informative guide to finding locally produced foods. The directory includes a list of area farmers markets, list of local farms to purchase local farm raised goods, list of restaurants that purchase local and organic ingredients and local wineries.

The Chair thanked Ms. Dickerson and Mr. Robinson for their update.

PUBLIC HEARINGS

An Ordinance Repealing the Ordinance Authorizing the Formation of the Workforce Investment Area Consortium and Entering Into The New River/Mount Rogers Workforce Investment Consortium Agreement

Proposed Ordinance entitled “Ordinance Repealing the Ordinance Authorizing the Formation of a Joint Entity Between the Counties of Bland, Carroll, Floyd, Giles, Grayson, Montgomery, Pulaski, Smyth, Washington and Wythe and the Cities of Bristol, Galax and Radford, Virginia to be called The Workforce Investment Area Consortium and Bestowing On Such Entity All Powers Necessary and Proper for the Performance of its Duties Under the Workforce Investment Act”.

The County Attorney provided a summary of the public hearing. The proposed amendment repeals the existing Workforce Investment Board and creates a new Workforce Investment Area Consortium.

Supervisor Brown, County’s representative on the Workforce Investment Board, explained that this change will help create one stop operating centers for people laid off from work and provide work training programs.

The Chair opened the public hearing.

There being no speakers, the public hearing was closed.

PUBLIC ADDRESS

Kyle Eanes asked the Board to consider a boundary line adjustment along Cove Hollow Road (SR 603) in Elliston, with Roanoke County. Mr. Eanes explained that the Montgomery County/Roanoke County line divides numerous properties along Cove Hollow Road. He asked the Board of Supervisors to work with Roanoke County to change the boundary line in order for these properties to be included entirely in Montgomery County. Mr. Eanes submitted a petition with signatures of 18 property owners requesting a change to the county boundary between Montgomery County and Roanoke County along Cove Hollow Road. By signing this petition, landowners agree and understand that 1) no children who may live in the proposed boundary adjustment area do not currently or in the future wish to attend Roanoke County schools; 2) will not expect to receive now or in the future any Roanoke County provided services (i.e. trash, schools, police services); and 3) request Montgomery County to agree to pay for the expenses necessary to implement the proposed boundary adjustment if the two Counties agree to the boundary adjustment.

Don Eanes agreed with the previous speaker and also requested the Board to consider a boundary line adjustment along Cove Hollow Road with Roanoke County.

The County Administrator reported he has met with Mr. Kyle Eanes and also had preliminary discussions with officials from Roanoke County to address this issue.

The Planning Director explained that the current boundary line runs through several parcels on Cove Hollow Road. It appears that more of the property is located in Montgomery County than Roanoke County.

The Planning Director reported that Mr. Eanes' house is located on the Roanoke County side; however, Mr. Eanes pays real estate taxes in Montgomery County and his children go to Montgomery County schools. When Mr. Eanes applied for a building permit he had to go to Roanoke County due to the house being located on Roanoke County's side.

Board members questioned who decides which county collects the real estate taxes and provides services in situations like this.

The County Attorney explained that an agreement is normally entered into by the Commissioner of Revenue's Office of the two Counties affected. They will determine which jurisdiction the property will fall under.

The County Attorney also explained that if a boundary line adjustment is considered, all parcels affected will have to be surveyed. This will incur a cost that will have to be covered either by the property owners or by Montgomery/Roanoke County.

Supervisor Creed asked, if both localities agree to a boundary line adjustment, will the parcels still have to be surveyed. The County Attorney replied a survey would still be required.

The County Administrator reported he will continue discussions with Roanoke County to try to resolve this issue.

B. Lloyd addressed the Board on behalf of a citizens group from the Price's Fork Community in Montgomery County. Mr. Lloyd reported that a community meeting was held to discuss the future of the Price's Fork Elementary School and grounds. The community participants have stated the following vision and goal: The Goal – To transform the Price's Fork Elementary School into a multi-use village center for the Price's Fork residents and satellite communities. Vision Statement-The Price's Fork Village Center will be a place where people of all ages can gather, to enjoy one another, as each participates in activities of respective mutual interest, and work together on/for common goals/programs.

Mr. Lloyd reported another community meeting is scheduled for September 17, 2009 to review the results from the citizens survey form sent out about the future use of the Price's Fork Elementary School and to prepare a plan. They will also address the need to formally organize and name the citizen group. Mr. Lloyd stated that after a formal plan has been prepared they will present it to the Board of Supervisors.

Larry Carden spoke in opposition to the proposed development along Tyler Road in the 177 Corridor. Mr. Carden believes there are better locations in Radford for these developments. He also stated that once development is started in this area he believes it will spread like wildfire and be no stopping it. Mr. Carden asked the Board of Supervisors to vote no on the rezoning requests.

Supervisor Politis distributed the following letter to the Board that he received from Doris S. Gibson who is in opposition to the proposed development in the 177 Corridor along Tyler Road.

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Sept. 9, 2009

Mr. Politics and fellow Supervisors:

Re: development of 177 and Ighite Rd.

I cannot say in five minutes about the project you our Supervisors and Planning Commission have been planning for two years. That needs to be said. First Mrs. Perkins said the last meeting I attended, the Supervisors are elected to work for us the citizens of Montgomery County. I would beg to disagree with her. Not a one of you live or work in our end of the County. As long as these things are not in your front door its O.K. with you. Big business and dollar signs get in your eyes. All any of you care about is revenue for the debt you have created for all us tax payers to try to pay. Anyone out side our County can come buy and sell you a bill of goods that aren't needed. Example "Smart road". Because it didn't pass by the first vote it was voted on a second time after persuading one to change his vote. How often do we get a chance to change a vote? Only when you want something. You voted against a nice clean, quite business, run by a small business to build a building to work out of on the Mudpike. I know Mr. McGee and knew his father and they ran and run a good business. Your reason was it didn't fit

in the neighborhood. I'll look what
you have dumped on us!! It's a done
deal same as the hospital. This was
going to happen. These people wouldn't
spend all the money they have already spent
if they didn't already have the go ahead.
you have to say how go through the formality
but your minds are already made up.

We have heard many times, no-one comes
to the hearings to protest. The reason! It's
already a done deal, what's the use?

Look at the City of Radford and the Town of
Christiansburg, trying so hard to revitalise down
town. We have restaurants, hotels, motels and
drug stores begging for business. Why try to
start a City out in the Country with expense
of getting water and sewer to it. Build from
the town and City out toward the Country
where all that is already available? Does
that not make good sense? Every day you
open here will chase one there. Is this
progress?

Since none of you live here, you don't know
about this area. Well diggers will tell
you, it is rotten Country. It isn't called
"Dry Valley" for no reason. We have to depend
on wells, and Cisterns for water. If you dig
and fiddle around with the lime-stone land
and mess up our water veins, we will
have no water!! All land as people around
us have caves everywhere. Have trouble

getting ponds to hold water. The bottoms just fall out. The very first thing developers do is move in and start rearranging the land! Big mistake! The man who spoke recently at your board meeting said we had a real prize in Montgomery Co. for its beauty. Please, don't destroy it.

Now at a time the state doesn't have the money to move our right of ways, repair our country roads so our buses can deliver children to and from school safely. Some not so far out you can hardly meet a bus without stopping or pulling aside to meet.

Things we need much more than spending 15 to 20 million for a turn-around!! Not too smart of a decision for the hard times we face now. Maybe later.

Who is going to support all this business? Homes are for sale every where - I don't think we need more housing!!

Don't take up our farm land. Driving our farmers out of business every day. you may enjoy buying food from Chile, Mexico, Argentina and China, not me I like the good old U.S.A. food.

you allow the Childress family to dump Christiansburg sewer in our front door - and it does smell - and they were supposed to do it every five

4

years - not every year, you allowed a hospital in our face that should have been at their first site across the interstate. Then allowed a Helicopter pad on top of a neighbors house. They were to have a flight plan - but they come and go over our house and circle our house to land day and night. Three houses here they fly over when they have acres of farm land where no-one lives that they could use and not fly over any houses. We're to see the first patient transported from air to the hospital as they said was the purpose of the pad. They still use the old pad at the emergency room as always and should do. But they got what they wanted anyway didn't they? Big business again!

Mr. Politis - why do you have your land in "Land Trust"? you evidently don't like development either, are we so different? Mr. Owens said "This is the place to develop". There were such few people to deal with. Is that a fair view? He doesn't live here does he? Please have mercy on our lovely - peaceful place to live. Please vote no.

Respectfully,
David S. Galison

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated September 14, 2009 was approved.

The vote on the foregoing motion was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| Mary W. Biggs | None |
| James D. Politis | |
| John A. Muffo | |
| Gary D. Creed | |
| William H. Brown | |
| Doug Marrs | |
| Annette S. Perkins | |

Approval of Minutes

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously, the minutes dated May 11, May 18 and May 19, 2009 were approved.

Schedule Public Hearing

R-FY-10-38 SCHEDULE PUBLIC HEARING AN ORDINANCE AMENDING CHAPTER 3 ENTITLED ANIMALS

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby agrees to schedule a Public Hearing for October 26, 2009 at 7:15 p.m. or as soon thereafter in the Board Room, Montgomery County Government Center located at 755 Roanoke Street, Christiansburg, Virginia to hear citizen comments on the following:

An Ordinance Amending Chapter 3, Entitled Animals, Sections 3-6, 3-7, 3-9, 3-28.2, 3-32, 3-33, 3-41, 3-42, 3-50, 3-51, 3-53 And 3-55 of the Code of the County of Montgomery Virginia, in Order to Comply with Changes in State Enabling Legislation

Appropriations/Transfers

**A-FY-10-33
RE-RECONCILIATION OF
COMPENSATION BOARD BUDGETS**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that an adjustment is hereby made to the annual appropriation for the function and in the amounts as follows:

Reduce Revenue Accounts

| | | | |
|-------|--------|--|-------------------|
| 02150 | 423100 | Shared Expense – Commissioner of Revenue | (\$ 2,635) |
| 02160 | 423100 | Shared Expense – Treasurer | (\$ 4,853) |
| 02200 | 423100 | Shared Expense – Commonwealth’s Attorney | (\$ 2,821) |
| 02250 | 423100 | Shared Expense – Clerk of Circuit Court | (\$ 3,378) |
| 02310 | 423100 | Shared Expense - Sheriff | (\$12,340) |
| | | Total | (\$26,027) |

Increase Fund Balance

| | | | |
|----|--------|---------------------------|----------|
| 02 | 451203 | Undesignated Fund Balance | \$26,027 |
|----|--------|---------------------------|----------|

Said resolution adjusts the Compensation Board funding to reflect a reduction in revenues.

**A-FY-10-34
CLERK OF THE CIRCUIT COURT
RECORD PRESERVATION GRANT FUNDS**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Montgomery County Board of Supervisors that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010 for the function and in the amount as follows:

| | | |
|-----|-----------------------------------|----------|
| 251 | Clerk of the Circuit Court Grants | \$25,856 |
|-----|-----------------------------------|----------|

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

| | | |
|--------|-------------------------|----------|
| 451205 | Designated Fund Balance | \$25,856 |
|--------|-------------------------|----------|

Said resolution appropriates Record Preservation Grant funds collected in FY 09 to be used in FY 10.

A-FY-10-35
SHERIFF
RECOVERED COSTS

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

| | | |
|-----|----------------|----------|
| 320 | Sheriff County | \$53,509 |
|-----|----------------|----------|

The sources of the funds for the foregoing appropriation are as follows:

Revenue Account

| | | |
|--------|-------------------------|-----------------|
| 419108 | Recovered Costs | \$1,210 |
| 451205 | Designated Fund Balance | <u>\$52,299</u> |
| | Total | \$53,509 |

Said resolution appropriates recovered costs and federal asset forfeiture funds for use by the Sheriff's department.

A-FY-10-36
SHERIFF
GRANT AWARDS

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

| | | |
|-----|----------------|------------------|
| 321 | Sheriff Grants | \$104,713 |
| 320 | Sheriff Grants | <u>\$ 41,485</u> |
| | Total | \$146,198 |

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

| | | |
|--------|--------------|-----------|
| 424401 | State Grants | \$146,198 |
|--------|--------------|-----------|

Said resolution appropriates monies from two DMV grants, Wireless E-911 grant program and the Federal Recovery Act.

A-FY-10-37
STATE FIRE PREVENTION PROGRAM
TRANSFER FROM GENERAL CONTINGENCIES

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

| | | |
|-----|-----------------------|-----------|
| 950 | General Contingencies | (\$5,054) |
|-----|-----------------------|-----------|

TO:

| | | |
|-----|-----------------------|---------|
| 910 | State Fire Prevention | \$5,054 |
|-----|-----------------------|---------|

Said resolution transfers appropriated funds from General Contingencies to the State Fire Prevention to cover the increased cost per acre charged by the State Forester for forest land in Montgomery County.

A-FY-10-38
COUNTY CAPITAL PROJECTS FUND
ADJUSTMENT OF ENCUMBRANCES CARRYOVER

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the County Capital Projects Fund appropriation was reduced from the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

| | | |
|-----|-----------------|-------------|
| 320 | Jail Renovation | (\$ 10,678) |
|-----|-----------------|-------------|

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

| | | |
|------------|---------------------------|------------|
| 02- 451205 | Undesignated Fund Balance | (\$10,678) |
|------------|---------------------------|------------|

Said resolution corrects the encumbrance carryover resolution.

R-FY-10-39
TECHNOLOGY RESERVE FUND
CARRYOVER FUNDS FROM FY09

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors approved establishment of a Technology Reserve Fund in the amount of \$300,000 on October 11, 2005; and

WHEREAS, Over \$86,000 remained at the end of Fiscal Year 2006 due to vacancy savings in Information Management Services; and

WHEREAS, The Technology Reserve Fund was increased in FY 07 to \$386,000; and

WHEREAS, Over \$38,000 remained at the end of Fiscal Year 2007 due to vacancy savings in Information Management Services; and

WHEREAS, Over \$117,021 remained at the end of Fiscal Year 2008 due to vacancy savings in Information Management Services; and

WHEREAS, Over \$28,387 remained at the end of Fiscal Year 2009 due to vacancy savings in Information Management Services; and

WHEREAS, The actual cost and timeframe for implementation of some technology projects has not yet been established.

NOW THEREFORE BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Technology Reserve Fund is increased from \$138,534 to \$166,921 to cover the future costs of technology projects.

A-FY-10-39
TECHNOLOGY RESERVE FUND
I-CARE PROJECT

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

| | | |
|-----|------------------------|----------|
| 140 | Information Technology | \$27,000 |
|-----|------------------------|----------|

The source of funds for the foregoing appropriation is as follows:

| | | |
|--------|--|----------|
| 451205 | Designated Fund Balance – Technology Reserve | \$27,000 |
|--------|--|----------|

Said resolution appropriates funds from the Technology Reserve for the one-time costs of the I-Care project.

R-FY-10-40
RESOLUTION AMENDING THE
BOARD OF SUPERVISORS MEETING DATES IN
NOVEMBER AND DECEMBER 2009

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby schedules its first meeting in November on **Thursday, November 12, 2009.**

BE IT FURTHER RESOLVED, The Board of Supervisors hereby cancels its second meeting in December due to the holidays.

R-FY-10-41
RESOLUTION NAMING A NEW STREET
TRACKSIDE DRIVE

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, There is an unnamed street located off Blount Drive in the eastern portion of the County; and

WHEREAS, The County requests this street be named Trackside Drive; and

WHEREAS, Trackside Drive complies with the County Street Name Policy.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that after duly considering said request, the Board hereby approves the use of the name Trackside Drive.

R-FY-10-42
RESOLUTION TO ABANDON PORTIONS OF
CENTENNIAL ROAD (SR 625)

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Virginia Department of Transportation has provided this Board with a sketch dated August 31, 1996, depicting the additions and abandonments required in the secondary system of state highways as a result of Project 0625-060-179, M502 (Centennial Road–SR 625), which sketch is hereby incorporated herein by reference; and

WHEREAS, The portions of old road identified to be abandoned are deemed to no longer serve public convenience warranting maintenance at public expense, and

WHEREAS, The new road serves the same citizens as those portions of old road identified to be abandoned and those segments no longer serve a public need.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby requests the Virginia Department of Transportation to add to the secondary system of state highways those portions of road (Centennial Road-SR 625) identified by the sketch to be added, pursuant to Section 33.1-229, Code of Virginia, and Section 3 shown in blue on the aforementioned sketch, a distance of 0.10 mile, and Section 5 shown in green of new connection on the aforementioned sketch, a distance of 0.03 mile, a total distance of 0.13 mile.

BE IT FURTHER RESOLVED, The Board of Supervisors abandons as part of the secondary system of state highways, those portions of road identified by the sketch to be abandoned, pursuant to Section 33.1-155, Code of Virginia, and Section 1, 2 and 4 shown in red on the aforementioned sketch, a total distance of 0.18 mile.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Residency Administrator of the Virginia Department of Transportation.

R-FY-10-43
RESOLUTION TO ABANDON PORTIONS OF
AND ADDITIONS TO
GEORGES RUN ROAD (SR 638)

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Virginia Department of Transportation has provided this Board with a sketch dated February 2, 2004, depicting the additions and abandonments required in the secondary system of state highways as a result of Project 0638-060-P08, M502, B643 (Georges Run Road – SR 638), which sketch is hereby incorporated herein by reference; and

WHEREAS, The portions of old road identified to be abandoned are deemed to no longer serve public convenience warranting maintenance at public expense, and

WHEREAS, The new road serves the same citizens as those portions of old road identified to be abandoned and those segments no longer serve a public need.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby requests the Virginia Department of Transportation to add to the secondary system of state highways those portions of road (Georges Run Road – SR 638)

identified by the sketch to be added, pursuant to Section 33.1-229, Code of Virginia, and Section 2, shown in blue on the aforementioned sketch, a total distance of 0.05 mile.

BE IT FURTHER RESOLVED, This Board abandons as part of the secondary system of state highways, those portions of road identified by the sketch to be abandoned, pursuant to Section 33.1-155, Code of Virginia, and Section 1, shown in red on the aforementioned sketch, a total distance of 0.05 mile.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Residency Administrator of the Virginia Department of Transportation.

**R-FY-10-44
NEW RIVER VALLEY
AGENCY ON AGING
APPOINTMENT**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **L. Carol Edmonds** to the **New River Valley Agency on Aging** effective October 1, 2009 and expiring September 30, 2010.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby appoints **Mary W. Biggs** as an alternate to the **New River Valley Agency on Aging** effective October 1, 2009 and expiring September 30, 2010.

BE IT FURTHER RESOLVED, That employees appointed to boards/commissions/authorities as a representative for Montgomery County, such appointment is contingent upon their continued employment with the County and that any such termination or resignation from employment would also constitute a voluntary resignation from such board/commission/authority.

BE IT FURTHER RESOLVED, The expiration of a Board of Supervisors term in office, shall constitute a voluntary resignation from any board/commission/authority appointment as a representative of Montgomery County.

OLD BUSINESS

Rezoning and Special Use Permit Requests in the 177 Corridor

The Planning Director provided additional information on the three rezoning and special use permit requests in the 177 Corridor as follows:

At the Board of Supervisor's meeting on August 24, 2009 there were several questions raised by board members concerning locating a potential site for an emergency services facility on one of

the properties under consideration for rezoning in the Route 177 Corridor. The Planning Director consulted with the County Attorney and Emergency Services Coordinator to address these questions enumerated below.

1. Did Staff review the need for an Emergency Services Facility in the project area?

Planning staff reviewed all three rezoning requests for compliance with all locally adopted plans and ordinances. As with all rezoning applications Planning staff included other parties in their review to identify potential issues. The Emergency Services Coordinator provided input as to safety of access, effective use of roundabout by emergency service vehicles, and whether there were adequate fire flows and secondary water sources available. During the staff and the Planning Commission review processes there was no mention of the need for a fire facility in this area. As development increases in the Route 177 Corridor the increased demand for public services, such as fire and rescue, will need to be evaluated and the options for addressing these demands will need to be assessed.

2. Is there a suitable location for an Emergency Services Facility on any of the properties currently under consideration for rezoning?

None of the proposed sites represent an ideal location for an emergency services facility. Location of an emergency services facility within the proposed development areas of the site will create conflict areas for volunteers attempting to reach the station and then again when dispatching vehicles from the station to the fire/rescue scene. A preferred land use location would be more centrally located within the Route 177 Corridor between Interstate 81 and the City of Radford on a site that has direct access to Route 177 including a median crossing.

3. Is it proper for a developer to proffer property for the purpose of locating a future Emergency Services Facility site?

Section 15.2 -2298 of the Code of Virginia provides the County with the enabling authority to enact ordinances utilizing conditional zoning authority. Under Section 10-54 the County has enacted conditional zoning whereby the County may accept proffered conditions that are in addition to the general uniform regulations otherwise applicable in the same zoning district. State law requires that proffers must be voluntarily offered by the developer and may only be accepted by the locality provided (1) the zoning itself gives rise to the need for the conditions; (2) such conditions have a reasonable relation to the rezoning; and (3) all conditions are in conformity with the Comprehensive Plan.

Based on the requirements of Section 15.2-2298 a developer may proffer property for a future emergency services facility provided the future emergency services facility site is reasonably related to the rezoning and the need for the emergency services facility is due to the rezoning. With increased development in the 177 Corridor there may be a need in the future for increased fire and/or rescue services in the 177 Corridor, however, an analysis of the demand levels and the potential options for meeting these levels would need to be conducted first to determine at what point a need exists and how that need is addressed. State law will not allow the

County to accept the dedication of the property offered as a proffer until the emergency services facility is included in the capital budget.

At this time none of the three applicants have voluntarily proffered a site for a future emergency services facility citing lack of property. The current 177 Overlay Ordinance requires each commercial development in the corridor to reserve 50% open space (max lot coverage 50%) that cannot be used for buildings or pavement which would include a future emergency services facility. Each one of the developments is planning on developing up to 50% of their lots leaving no excess open space that may be used as a future emergency services facility. However, the zoning ordinance does allow for a reduction in the open space requirement to 40% during the site plan process by incorporating innovative and creative features into the development design. At this point Staff is not able to determine whether this is a viable option for any of the developers to make an appropriate piece of land available for a future emergency services facility since there are numerous requirements yet to be studied by the developers that must be addressed at site plan review to be eligible for the ten percent (10%) reduction in open space.

4. Can a developer offer property for the purpose of locating a future public emergency services facility site through a different process besides a conditional rezoning?

Land for a future emergency services facility can be offered by the developers outside of the rezoning process through a private agreement with the property owner and the County or the local fire department or rescue squad.

Supervisor Politis stated that he has reservations about approving the three rezoning requests; however, he will vote yes. He commented that the main concern he has is the closing of Meadow Creek Road at the intersection of Tyler Road and traffic redirected on Barn Road. He understands that Barn Road will be upgraded and appreciates the construction of a round-about to alleviate traffic congestion. He knows this area was placed in Urban Expansion and growth is to be expected. All efforts have been put in place to make sure the construction of the buildings are pleasing to the eye and do not consist of steel buildings. Supervisor Politis also commented that it will take years before full build-out on all three projects will occur and before any impact is felt.

Supervisor Biggs commented that she believes the Board of Supervisors and Planning Commission both have done a thorough job in reviewing the proposed developments and addressed a number of concerns expressed by the Board and Planning Commission.

Supervisor Brown also stressed that these developments will not be a truck stop. He understands there has been concern since the rest areas have been closed on the Interstate that truckers may use the proposed gas stations for layovers. Proffers have been put in place that state the site shall not be utilized as a trucking terminal and overnight or extended parking of tractor trailers shall be prohibited. He believes this will not be an uncontrolled development.

Chair Perkins, in summary, stated that everyone involved did a tremendous job to insure safeguards were put in place to protect the citizens in this area.

The Chair closed the discussion.

ORD-FY-10-11
AN ORDINANCE AMENDING THE ZONING CLASSIFICATION
OF APPROXIMATELY 21.13 ACRES FROM
AGRICULTURAL (A-1) TO GENERAL BUSINESS (GB)
AND 14.19 ACRES FROM AGRICULTURE (A-1) TO RESIDENTIAL (R-3)
IN THE RINER MAGISTERIAL DISTRICT
LOCATED AT 2735 TYLER ROAD
IDENTIFIED AS TAX PARCEL NO(S) 104-A-32, 32A, 33 AND
104-7-A, PARCEL NO(S) 018647, 011957, 019186 AND 023358
S&P OF VIRGINIA, LLC

On a motion by John A. Muffo, seconded by William H. Brown and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and the Rt. 177 Corridor Agreement and meets the requirement for public necessity, convenience, general welfare and good zoning practice and therefore the zoning classification of that certain tracts or parcels of land consisting of approximately 21.13 acres of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to General Business (GB) and 14.19 acres of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to Residential (R-3) with the following proffered conditions:

- 1) Property shall be developed in substantial conformance with the conceptual plan by Balzer and Associates, Inc. dated May 1, 2009 with a revision date of August 17, 2009.
- 2) The site shall be served by Montgomery County PSA sanitary sewer and water. The rezoning of the property does not allocate or reserve water and sewer capacity for the proposed development. Site plan approval for the development shall be conditioned upon adequate water and sewer capacity being available. There is a limited amount of water and sewer capacity available for development in the 177 Corridor before infrastructure improvements are needed to increase capacity. The applicant may be responsible for bearing the cost of any necessary utility infrastructure improvements needed by the PSA both on site and off site to accommodate the requested capacity based on the proposed use for the Property.
- 3) A detailed site plan/subdivision plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development.
- 4) Stormwater management on the property shall be in accordance with all State and Local stormwater management standards.
- 5) A minimum of 10% of the overall stormwater management requirements shall be provided by Low Impact Development techniques.

- 6) The following uses will be prohibited in the General Business District: building material sales, cemetery, crematorium, homeless shelter, motor vehicle rentals, automotive-light truck, and funeral home.
- 7) Homes in the Residential District are to be on permanent foundations and shall be either stick built or pre-manufactured and assembled onsite.
- 8) All entrances onto Tyler Road at the roundabout and onto Bains Chapel Road as shown on the Master Plan dated August 17, 2009 and submitted to VDOT as part of the Traffic Impact Analysis shall be designed to Virginia Department of Transportation standards and meet the Montgomery County 177 Corridor Plan.
- 9) The Tyler Road entrance improvements referenced in proffer 8 above shall be constructed and approved and accepted by VDOT prior to any building permits being issued.
- 10) The proposed access entrances onto Bains Chapel Road referenced in proffer 8 above shall be approved by the Virginia Department of Transportation prior to the recordation of any residential subdivision plats.
- 11) The main road and entrance improvements at Bains Chapel Road connecting Bains Chapel Road with Tyler Road shall be constructed, approved and accepted by VDOT prior to any building permits being issued in the Residential portion of the proposed development or prior to more than 50% (10.57 acres) of the General Business District being authorized for development pursuant to an approved site plan(s) whichever occurs first.
- 12) The following architectural standards of the development will be incorporated into the development to provide compatibility with commercial uses on the 177 Corridor:
 - a. No heating, air conditioning or mechanical equipment shall be placed on the roof of any building unless screened from ground level. Flat roofs shall have a parapet wall tall enough in height to screen any roof mounted mechanical equipment.
 - b. The exposed portions of all exterior wall surfaces of each building on the Property (excluding rooftop screening materials for mechanical equipment) shall be designed and constructed of similar materials. This proffer shall not preclude the use of a design that alternates a combination of permitted materials for architectural effect. Building materials shall consist of brick, stone, split face block, EIFS such as Dryvit or cementitious siding.
 - c. Roofing materials for pitched roofs shall be metal, natural or composite shingle. Buildings with flat roofs shall have a decorative cornice at the top of all walls.
 - d. When a building is adjacent to a public right of way, architectural detail shall be incorporated to create architectural character on the building faces that are visible from that public right of way. Detail includes highlighting foundations, lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries.

- e. Windows and doors shall have a regular pattern of solids and voids that are consistent throughout individual buildings when visible from a public right of way.
- f. Building elevations shall be included with all site plan submittals.
- g. Prefabricated metal buildings with vertical metal siding shall be prohibited.

The property is located at 2735 Tyler Road and is identified as Tax Parcel No. 104-A-32, 32A, 33 and 104-7-A (Account #'s 018647, 011957, 019186, 023358) in the Riner Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and Planned Commercial and Planned Residential in the Route 177 Corridor Plan.

This action was commenced upon the applications of S&P of Virginia, LLC (Agent: Balzer and Associates).

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| John A. Muffo | None |
| Gary D. Creed | |
| William H. Brown | |
| Mary W. Biggs | |
| Doug Marrs | |
| James D. Politis | |
| Annette S. Perkins | |

**R-FY-10-45
SPECIAL USE PERMIT
S&P OF VIRGINIA, LLC
FOR THE PURPOSE OF ALLOWING A CONVENIENCE STORE WITH MOTOR
FUEL SALES IN A GENERAL BUSINESS (GB) ZONING DISTRICT IN THE
RINER MAGISTERIAL DISTRICT PARCEL ID(S) 018647, 011957, 019186,
023358; TAX MAP NUMBER 104-A-32A, 104-A-32, 104-A-33, 104-7-A**

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia a request by **S&P of Virginia, LLC** for a **Special Use Permit (SUP)** on approximately 22.95 acres in a General Business (GB) zoning district to allow **Convenience Store with Motor Fuel Sales** is found to be consistent with the County's Comprehensive Plan and is hereby **approved** with the following conditions:

- 1) All exterior lighting on the site shall conform to Montgomery County Code 10-46, Performance Standards. In addition, canopy lighting over any fuel pumps shall be recessed, flat lens fixtures.
- 2) The site shall not be utilized as a trucking terminal. Overnight or extended parking of tractor trailers shall be prohibited.
- 3) Site design and fuel pumps shall follow best management practices of the Virginia Department of Environmental Quality to prevent spills and leakage of fuel into groundwater or stormwater facilities.
- 4) The columns and kiosk (if applicable) of any fuel pumps and canopy shall primarily be of brick, stone, or similar material the style and color of which shall match the convenience store to which it is associated to the extent practicable, unless otherwise requested and specifically approved, at the time of site plan approval.

The property is located at 2735 Tyler Road, and is identified as Tax Parcel No(s) 104-A-32A, 104-A-32, 104-A-33 and 104-7-A; Parcel ID 018647, 011957, 019186 and 023358, in the Riner Magisterial District. This property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and further designated as Planned Commercial and Planned Residential in the Route 177 Corridor Plan.

The vote on the foregoing resolution was as follows:

AYE

Gary D. Creed
William H. Brown
Mary W. Biggs
Doug Marrs
John A. Muffo
James D. Politis
Annette S. Perkins

NAY

None

ORD-FY-10-12
AN ORDINANCE AMENDING THE ZONING CLASSIFICATION
OF APPROXIMATELY 9.44 ACRES FROM
AGRICULTURAL (A-1) TO GENERAL BUSINESS (GB)
IN THE RINER MAGISTERIAL DISTRICT
LOCATED AT 2843 TYLER ROAD
IDENTIFIED AS TAX PARCEL NO(S) 104-A-30 AND PARCEL NO(S) 011606
EMERALD INVESTORS, INC

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and the Rt. 177 Corridor Agreement and meets the requirement for public necessity, convenience, general welfare and good zoning practice and therefore the zoning classification of that certain

tracts or parcels of land consisting of approximately 9.44 acres of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to General Business (GB) with the following proffered conditions:

- 1) Property shall be developed in substantial conformance with the conceptual plan by Balzer and Associates, Inc. dated June 1, 2009 and revised August 17, 2009.
- 2) The site shall be served by Montgomery County PSA sanitary sewer and water. The rezoning of the property does not allocate or reserve water and sewer capacity for the proposed development. Site plan approval for the development shall be conditioned upon adequate water and sewer capacity being available. There is a limited amount of water and sewer capacity available for development in the 177 Corridor before infrastructure improvements are needed to increase capacity. The applicant may be responsible for bearing the cost of any necessary utility infrastructure improvements needed by the PSA both on site and off site to accommodate the requested capacity based on the proposed use for the Property.
- 3) A detailed site plan/subdivision plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development.
- 4) Stormwater management shall be proposed on the property in accordance with all State and Local stormwater management standards.
- 5) The entrances onto Tyler Road at the roundabout and the right in/right out as shown on the MasterPlan dated August 17, 2009 and submitted to VDOT as part of the Traffic Impact Analysis shall be designed to Virginia Department of Transportation standards and meet the Montgomery County 177 Corridor Plan.
- 6) The Tyler Road entrance improvements referenced in proffer 5 above shall be constructed and approved and accepted by VDOT prior to any building permits being issued.
- 7) The following uses will be prohibited in the General Business District: apartment as accessory use, building material sales, cemetery, church, civic club, crematorium, custom meat cutting- processing and sales, funeral home, homeless shelter, pet-household, public utility lines-other distribution or collection facility, school, and garden center.
- 8) The owner shall coordinate and cooperate with AEP during the development of construction plans consistent with the July 29, 2009, letter from AEP to Balzer & Associates, Inc. in order to provide for the overall safety of future users of the site and to ensure that AEP construction guidelines are effectively met.
- 9) The following architectural standards of the development will be incorporated into the development to provide compatibility with commercial uses on the 177 Corridor:
 - a. No heating, air conditioning or mechanical equipment shall be placed on the roof of any building unless screened from ground level. Flat roofs shall have a parapet wall tall enough in height to screen any roof mounted mechanical equipment.

- b. The exposed portions of all exterior wall surfaces of each building on the Property (excluding rooftop screening materials for mechanical equipment) shall be designed and constructed of similar materials. This proffer shall not preclude the use of a design that alternates a combination of permitted materials for architectural effect. Building materials shall consist of brick, stone, split face block, EIFS such as Dryvit or cementitious siding.
- c. Roofing materials for pitched roofs shall be metal, natural or composite shingle. Buildings with flat roofs shall have a decorative cornice at the top of all walls.
- d. When a building is adjacent to a public right of way, architectural detail shall be incorporated to create architectural character on the building faces that are visible from that public right of way. Detail includes highlighting foundations, lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries.
- e. Windows and doors shall have a regular pattern of solids and voids that are consistent throughout individual buildings when visible from a public right of way.
- f. Building elevations shall be included with all site plan submittals.
- g. Prefabricated metal buildings with vertical metal siding shall be prohibited

This action was commenced upon the applications of Emerald Investors, Inc. (Agent: Balzer and Associates).

The property is located at 2843 Tyler Road and is identified as Tax Parcel No. 104-A-30 (Account #'s 011606) in the Riner Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and Planned Commercial in the Route 177 Corridor Plan.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| William H. Brown | None |
| Mary W. Biggs | |
| Doug Marrs | |
| John A. Muffo | |
| Gary D. Creed | |
| James D. Politis | |
| Annette S. Perkins | |

**R-FY-10-46
SPECIAL USE PERMIT
EMERALD INVESTORS, INC
FOR THE PURPOSE OF ALLOWING
A CONVENIENCE STORE WITH MOTOR FUEL SALES
IN A GENERAL BUSINESS (GB) ZONING DISTRICT
IN THE RINER MAGISTERIAL DISTRICT PARCEL ID 011606;
TAX MAP NUMBER 104-A-30**

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia a request by **Emerald Investors** for a **Special Use Permit (SUP)** on approximately 9.44 acres in a General Business (GB) zoning district to allow **Convenience Store with Motor Fuel Sales** is found to be consistent with the County's Comprehensive Plan and is hereby **approved** with the following conditions:

- 1) All exterior lighting on the site shall conform to Montgomery County Code 10-46, Performance Standards. In addition, canopy lighting over any fuel pumps shall be recessed, flat lens fixtures.
- 2) The site shall not be utilized as a trucking terminal. Overnight or extended parking of tractor trailers shall be prohibited.
- 3) Site design and fuel pumps shall follow best management practices of the Virginia Department of Environmental Quality to prevent spills and leakage of fuel into groundwater or stormwater facilities.
- 4) The columns and kiosk (if applicable) of any fuel pumps and canopy shall primarily be of brick, stone, or similar material the style and color of which shall match the convenience store to which it is associated to the extent practicable, unless otherwise requested and specifically approved, at the time of site plan approval.

The property is located at 2843 Tyler Road, and is identified as Tax Parcel No(s) 104-A-30; Parcel ID 011606, in the Riner Magisterial District. This property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and further designated as Planned Commercial in the Route 177 Corridor Plan.

The vote on the foregoing resolution was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| Mary W. Biggs | None |
| Doug Marrs | |
| John A. Muffo | |
| Gary D. Creed | |
| William H. Brown | |
| James D. Politis | |
| Annette S. Perkins | |

ORD-FY-10-13
AN ORDINANCE AMENDING THE ZONING CLASSIFICATION
OF APPROXIMATELY 6.0184 ACRES FROM
AGRICULTURAL (A-1) TO GENERAL BUSINESS (GB)
IN THE RINER MAGISTERIAL DISTRICT
LOCATED ON THE SOUTHEAST CORNER OF
MEADOW CREEK ROAD AND TYLER ROAD
IDENTIFIED AS TAX PARCEL NO(S) 104-4-47 AND PARCEL NO(S) 002244
ROGER WOODY

On a motion by Gary D. Creed, seconded by Doug Marrs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and the Rt. 177 Corridor Agreement and meets the requirement for public necessity, convenience, general welfare and good zoning practice and therefore the zoning classification of that certain tracts or parcels of land consisting of approximately 6.0184 acres of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to General Business (GB) with the following proffered conditions:

- 1) Property shall be developed in substantial conformance with the conceptual plan by Balzer and Associates, Inc. dated July 1, 2009 and revised August 17, 2009.
- 2) The site shall be served by Montgomery County PSA sanitary sewer and water. The rezoning of the property does not allocate or reserve water and sewer capacity for the proposed development. Site plan approval for the development shall be conditioned upon adequate water and sewer capacity being available. There is a limited amount of water and sewer capacity available for development in the 177 Corridor before infrastructure improvements are needed to increase capacity. The applicant may be responsible for bearing the cost of any necessary utility infrastructure improvements needed by the PSA both on site and off site to accommodate the requested capacity based on the proposed use for the Property.
- 3) A detailed site plan/subdivision plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development.
- 4) Stormwater management shall be proposed on the adjacent property, TM# 104-A 27A, in accordance with all State and Local stormwater management standards.
- 5) All entrances onto Tyler Road at the roundabout and the right in/right out as shown on the Master Plan dated August 17, 2009 and submitted to VDOT as part of the Traffic Impact Analysis shall will be designed to Virginia Department of Transportation standards and meet the Montgomery County 177 Corridor Plan.
- 6) The right in/right out entrance shall be approved and constructed prior to the issuance of a certificate of occupancy for building "C" or "D" as shown on the approved Master Plan.
- 7) The following uses will be prohibited in the General Business District: apartment as accessory use, building material sales, cemetery, church, civic club, crematorium, custom meat cutting- processing and sales, funeral home, homeless shelter, pet-household, public utility lines-other distribution or collection facility, school, and garden center.

- 8) The owner will agree to share in the expense of realigning and improving Barn Road in an amount not to exceed 50% of the cost of the lowest bid for those improvements upon the closing of Meadow Creek Road and the vacation of the associated Meadow Creek Road right of way by the Montgomery County Board of Supervisors.
- 9) The owner shall coordinate and cooperate with AEP during the development of construction plans consistent with the July 29, 2009, letter from AEP to Balzer & Associates, Inc. in order to provide for the overall safety of future users of the site and to ensure that AEP construction guidelines are effectively met.
- 10) The following architectural standards of the development will be incorporated into the development to provide compatibility with commercial uses on the 177 Corridor:
 - a) No heating, air conditioning or mechanical equipment shall be placed on the roof of any building unless screened from ground level. Flat roofs shall have a parapet wall tall enough in height to screen any roof mounted mechanical equipment.
 - b) The exposed portions of all exterior wall surfaces of each building on the Property (excluding rooftop screening materials for mechanical equipment) shall be designed and constructed of similar materials. This proffer shall not preclude the use of a design that alternates a combination of permitted materials for architectural effect. Building materials shall consist of brick, stone, split face block, EIFS such as Dryvit or cementitious siding.
 - c) Roofing materials for pitched roofs shall be metal, natural or composite shingle. Buildings with flat roofs shall have a decorative cornice at the top of all walls.
 - d) When a building is adjacent to a public right of way, architectural detail shall be incorporated to create architectural character on the building faces that are visible from that public right of way. Detail includes highlighting foundations, lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries.
 - e) Windows and doors shall have a regular pattern of solids and voids that are consistent throughout individual buildings when visible from a public right of way.
 - f) Building elevations shall be included with all site plan submittals.
 - g) Prefabricated metal buildings with vertical metal siding shall be prohibited.

This action was commenced upon the applications of Emerald Investors, Inc. (Agent: Balzer and Associates).

The property is located at the southeast corner of Meadow Creek Road and Tyler Road and is identified as Tax Parcel No. 104-4-47 (Account #'s 002244) in the Riner Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and Planned Commercial in the Route 177 Corridor Plan.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

AYE

Doug Marrs

John A. Muffo

Gary D. Creed

William H. Brown

Mary W. Biggs

James D. Politis

Annette S. Perkins

NAY

None

**R-FY-10-47
SPECIAL USE PERMIT
ROGER WOODY
FOR THE PURPOSE OF ALLOWING A
CONVENIENCE STORE WITH MOTOR FUEL SALES
IN A GENERAL BUSINESS (GB) ZONING DISTRICT
IN THE RINER MAGISTERIAL DISTRICT PARCEL ID 002244;
TAX MAP NUMBER 104-4-47**

On a motion by Doug Marrs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia a request by **Roger Woody** for a **Special Use Permit (SUP)** on approximately 6.0184 acres in a General Business (GB) zoning district to allow **Convenience Store with Motor Fuel Sales** is found to be consistent with the County's Comprehensive Plan and is hereby **approved** with the following conditions:

- 1) All exterior lighting on the site shall conform to Montgomery County Code 10-46, Performance Standards. In addition, canopy lighting over any fuel pumps shall be recessed, flat lens fixtures.
- 2) The site shall not be utilized as a trucking terminal. Overnight or extended parking of tractor trailers shall be prohibited.
- 3) Site design and fuel pumps shall follow best management practices of the Virginia Department of Environmental Quality to prevent spills and leakage of fuel into groundwater or stormwater facilities.
- 4) The columns and kiosk (if applicable) of any fuel pumps and canopy shall primarily be of brick, stone, or similar material the style and color of which shall match the convenience store to which it is associated to the extent practicable, unless otherwise requested and specifically approved, at the time of site plan approval.

The property is located at the southeast corner of Meadow Creek Road and Tyler Road, and is identified as Tax Parcel No(s) 104-4-47; Parcel ID 002244, in the Riner Magisterial District. This property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and further designated as Planned Commercial in the Route 177 Corridor Plan.

The vote on the foregoing resolution was as follows:

AYE

John A. Muffo

Gary D. Creed

William H. Brown

Mary W. Biggs

Doug Marrs

James D. Politis

Annette S. Perkins

NAY

None

NEW BUSINESS

REMOVE FROM THE AGENDA – NRV BENEFITS CONSORTIUM JOINT POWERS AGREEMENT

By consensus of the Board, the resolution to consider approving the NRV Benefits Consortium Joint Powers Agreement was removed from the agenda and will be placed on a future agenda.

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BUDGET CALENDAR FOR FY 2010-2011:

R-FY-10-48 RESOLUTION APPROVING THE BUDGET CALENDAR FOR FY 2011

On a motion by Mary W. Biggs , seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the proposed FY 2011 Budget Calendar is hereby approved. It is the intent of the Board of Supervisors that departments, offices, and agencies requesting funds through the budget process adhere to the deadlines prescribed within the calendar.

COUNTY OF MONTGOMERY BUDGET CALENDAR FOR FY 2011

The Budget Calendar is a schedule for the development of the County budget. It is very important that everyone adhere to the Budget Calendar and fulfill his/her responsibility in the budgeting process.

| <u>DATE</u> | <u>FUNCTION</u> | <u>RESPONSIBILITY</u> |
|-------------------------------|---|--|
| November 6, 2009 | Budget working documents given to divisions and mailed to external agencies along with special instructions and guidelines. | Financial & Management Services |
| November 16, 2009 | Budget work session on issues for budget development - (Special Board Meeting) | Board of Supervisors |
| December 7-11, 2009 | Divisions without access to the County's network enter base budget changes. | Financial & Management Services |
| December 30, 2009 | Due date for Proposed Base Budget revisions for all divisions, agencies, and organizations. (except for Schools) | Directors, Divisions, and Agency Heads |
| January 11, 2010 | Public Hearing for citizen input. (Regular Board Meeting) | Board of Supervisors |
| January 11 - February 8, 2010 | County Administrator reviews budget requests with Directors, Constitutional Officers, and Agency Heads. | County Administrator |

| <u>DATE</u> | <u>FUNCTION</u> | <u>RESPONSIBILITY</u> |
|---------------------------|---|------------------------------|
| January 25, 2010 | Budget work session on issues for budget development - (Regular Board Meeting) | Board of Supervisors |
| February 8, 2010 | Budget work session on issues for budget development - School Budget Presentation. (Regular Board Meeting) | School Board |
| February 22, 2010 | Budget work session on issues for budget development - (Regular Board Meeting) | Board of Supervisors |
| March 5, 2010 | Proposed Budget document delivered to Board of Supervisors. | County Administrator |
| March 8, 2010 | Presentation of FY 11 Proposed Budget. (Regular Board Meeting) | County Administrator |
| March 8-15, 2010 | Budget work sessions on issues for budget development - Develop advertised budget and tax rate. (Special Work Sessions) | Board of Supervisors |
| March 15, 2010 | Budget work session on issues for budget development - By this date; establish advertised tax rate and prepare budget synopsis notices of public hearing in paper. (Special Work Session) | Board of Supervisors |
| March 25, 2010 | Public Hearing on advertised tax rate and budget. (Special Board Meeting) | Board of Supervisors |
| March 15 - April 12, 2010 | Work sessions to adopt budget (including Schools) and establish tax rate. | Board of Supervisors |
| April 12, 2010 | Establish tax rate and adopt budget. (Regular Board Meeting) | Board of Supervisors |
| By June 30, 2010 | Make final budget appropriation. | Board of Supervisors |
| After July 1, 2010 | Divisions and Agencies notified of final appropriations. | County Administrator |

- 1 PUBLIC HEARING: A public hearing on the budget is required. If a tax rate increase is needed, notice must be published at least 7 days before the public hearing and at least 14 days before final action.
- 2 TAX RATE AND BUDGET: The tax rate and budget must be established at the same time. This must be done early to process the first installment of real estate taxes.
- 3 LEGAL NOTICES AND PUBLIC HEARINGS: Legal notices and public hearings on the School Budget may be considered separately from the Non-School Budget. The School Budget must be approved by May 1, 2010 or within 30 days after receipt of State revenue estimates; which is later.

The vote on the forgoing resolution was as follows:

AYE:

William H. Brown
Mary W. Biggs
Doug Marrs
James D. Politis
John A. Muffo
Gary D. Creed
Annette S. Perkins

NAY:

None

**R-FY-10-49
PROCLAMATION
NATIONAL BREAST CANCER AWARENESS MONTH
AND NATIONAL MAMMOGRAPHY DAY**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, Statistically, one out of every eight women in America will face breast cancer in her lifetime; and

WHEREAS, Early detection of breast cancer means better survival, so it is important for women to get mammograms at regular intervals; and

WHEREAS, In 2009, there still are women who do not take advantage of early detection at all and others who do not get screening mammograms and clinical breast exams at regular intervals; and

WHEREAS, If all women age 40 and older took advantage of early detection methods – mammography plus clinical breast exam – breast cancer death rates would drop up to 30 percent further; and

WHEREAS, In 1993, President Clinton declared the third Friday in October each year as National Mammography Day. On this day, or throughout the month, radiologists provide

Minutes, September 14, 2009

Page 35 of 42

discounted or free screening mammograms. In 2009, National Mammography Day will be celebrated on October 16; and

WHEREAS, Since the National Breast Cancer Awareness Month program began in 1985, mammography rates have more than doubled for women age 50 and older and breast cancer deaths are on the decline; and

WHEREAS, Our Health Magazine and the Greater Roanoke chapter of Susan G. Komen for a Cure are collaborating to promote breast cancer awareness by celebrating the first annual Promise to Schedule Your Mammogram Day on October 5, 2009.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia does hereby proclaim the **month of October, 2009** as **BREAST CANCER AWARENESS MONTH**, **October 16, 2009** as **MAMMOGRAPHY DAY**, and **October 5, 2009** as **PROMISE TO SCHEDULE YOUR MAMMOGRAM DAY** in Montgomery County, and urges all citizens to encourage the women in your life to get mammograms on a regular basis.

The vote on the foregoing resolution was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| Mary W. Biggs | None |
| Doug Marrs | |
| James D. Politis | |
| John A. Muffo | |
| Gary D. Creed | |
| William H. Brown | |
| Annette S. Perkins | |

R-FY10-50
RESOLUTION OF COMMEMORATION
PHILLIP EDWIN KEITH

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, The recent death of *Philip Edwin “Phil” Keith* has touched and saddened all those who knew and loved him; and

WHEREAS, *Phillip Edwin Keith* was a lifelong resident of Montgomery County, growing up on his parents’ dairy farm in the Riner area; and

WHEREAS, *Phillip Edwin Keith* was valedictorian of the Auburn High School class of 1969, graduated from Virginia Tech first in his class with a 4.0 GPA, and attended law school at the University of Virginia where he graduated in the top third of the class; and

WHEREAS, Phillip Edwin Keith joined the Montgomery County Commonwealth's Attorney's office in 1980 and went on to become head prosecutor and was elected to two full terms as Montgomery County's Commonwealth's Attorney; and

WHEREAS, Phillip Edwin Keith was well known throughout the community and admired for his unquestioned integrity and strong character; and

WHEREAS, Phillip Edwin Keith has touched thousands of lives in Montgomery County and has set an incredible example for us to follow to make our community a better place; and

WHEREAS, Phillip Edwin Keith will be greatly missed and lovingly remembered by those who knew him.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby offers its deepest condolences and most heartfelt sympathy to his family and hereby offers a special tribute to **Phillip Edwin Keith** for his many contributions to Montgomery County.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to the family of **Phillip Edwin Keith** and that a copy be made a part of the official minutes of Montgomery County, that his memory may be so honored and ever cherished.

The vote on the foregoing resolution was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| Doug Marrs | None |
| James D. Politis | |
| John A. Muffo | |
| Gary D. Creed | |
| William H. Brown | |
| Mary W. Biggs | |
| Annette S. Perkins | |

INTO WORK SESSION

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Tax Relief for the Elderly and Disabled

The vote on the foregoing motion was as follows:

| <u>AYE</u> | <u>NAY</u> |
|--------------------|------------|
| James D. Politis | None |
| John A. Muffo | |
| Gary D. Creed | |
| William H. Brown | |
| Mary W. Biggs | |
| Doug Marrs | |
| Annette S. Perkins | |

Tax Relief for the Elderly and Disabled

Carol Edmonds, Assistant County Administrator, provided an overview of the current tax relief procedures for the Elderly and Disabled. The County offers a tax relief program which is available to anyone 65 or older, or who is totally and permanently disabled, and who owns and lives in the home (including mobile homes) for which relief is applied. Tax relief ranges from 40% to 100%, depending on the total household income, asset values and meet eligibility criteria.

Last year the Board of Supervisors approved to increase the income limits in increments of \$5,000 annually moving toward the state maximum of \$50,000. Asset increases have been based on increases in real estate values during reassessments. Current income limits for 2009 is \$35,000. The following chart shows the total of citizens served for 2008 and 2009:

| | 2008 | 2008 | 2009 | 2009 |
|-----------------------------|--------------------|--------------------|--------------------|--------------------|
| <u>Percentage of Relief</u> | <u>Real Estate</u> | <u>Mobile Home</u> | <u>Real Estate</u> | <u>Mobile Home</u> |
| 40% | 37 | 3 | 27 | 2 |
| 60% | 59 | 8 | 55 | 4 |
| 100% | <u>352</u> | <u>75</u> | <u>420</u> | <u>76</u> |
| Total | 448 | 96 | 502 | 82 |

Ms. Edmonds stated that both the Town of Christiansburg and Town of Blacksburg offer a tax relief program and have maintained the same limits as Montgomery County. The Towns and County have made their ordinances consistent to reduce confusion among citizens about the programs.

Ms. Edmonds asked if the Board wants to increase the income limit by \$5,000 and continue the increase annually until the state maximum is reached and do they want to continue the policy of increasing the asset limits at the time of reassessment.

The following shows the proposed increase in income limits of \$5,000:

| <u>Relief</u> | <u>2009 Income</u> | <u>2010 Increased by \$5,000</u> |
|---------------|--------------------|----------------------------------|
| 100% | \$0-\$22,400 | \$0-\$25,600 |
| 60% | \$22,401-\$28,000 | \$25,601 - \$32,000 |
| 40% | \$28,001-\$35,000 | \$32,001-\$40,000 |

The next steps are to consider if the two Town councils will also consider the same changes. If the Board wants to pursue the change then a public hearing will need to be scheduled at the September 28, 2009 meeting, hold the public hearing on October 26, 2009, and vote on the ordinance on November 11, 2009.

Board members agreed that they would like to continue increasing the income limits by \$5,000 annually until it reaches the State maximum of \$50,000. They also stressed the need to make citizens aware of the program. Notification is sent with the real estate tax bills about the tax relief program; however, the Board felt more notification is needed, such as placing an display ad in the paper. They also suggested holding seminars with the Retired Senior Program and other senior agencies.

By Board consensus staff was authorized to add to the September 28, 2009 agenda, a resolution to schedule a public hearing on the proposed changes to the Tax Relief for the Elderly and Disabled ordinance.

OUT OF WORK SESSION

On a motion by Doug Marrs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

| | |
|--------------------|------------|
| <u>AYE</u> | <u>NAY</u> |
| John A. Muffo | None |
| Gary D. Creed | |
| William H. Brown | |
| Mary W. Biggs | |
| Doug Marrs | |
| James D. Politis | |
| Annette S. Perkins | |

COUNTY ADMINISTRATOR'S REPORT

Montgomery County Sheriff's Inmate Litter Clean -Up Project Report: For the period July 15, 2009 – August 29, 2009 a total of 3,220 pounds of trash was collected on the County's secondary roads.

Board members commended the Sheriff's Office for providing this service. They are hearing positive comments from the communities on the inmate litter clean-up program.

Tour of Library Facilities in Montgomery County - The County Administrator reported he took a tour of the library facilities in Montgomery County. He believes they are a great asset to the County.

State Budget Reduction – Staff is still reviewing what impact the state budget reductions will have on the County. There are significant budget cuts to the Constitutional Officers and the County will face some budget challenges.

Legislative Dinner - The County Administrator asked Board members to check their calendars to see what dates they have available to schedule the annual legislative dinner meeting with the County's Delegates and Senators.

New Courthouse Groundbreaking Ceremony will be held on Friday, September 18, 2009 at 10:00 a.m.

The County Administrator recognized Kevin Byrd, County's Comprehensive Planner. Mr. Byrd's last day with the County is today, September 14, 2009. Mr. Byrd has accepted the Executive Director's position for the New River Valley Planning District Commission.

BOARD MEMBERS' REPORTS

Supervisor Politis traveled to Washington, D.C. to attend the "Tea Party" Demonstration on September 12, 2009. Approximately 2 million people participated in the demonstration to protest against excessive spending and the need for a better government.

Supervisor Perkins attended a meeting with the County's legislators to discuss the need for a regional 911 Center in the New River Valley. They requested the Legislators support in submitting a bill in the next General Assembly Session for the authorization for the creation of a New River Valley Regional 911 Emergency Communications Authority.

Christiansburg Institute – Supervisor Perkins requested the Board of Supervisors consider appropriating funds to the Christiansburg Institute to help them achieve their goal to create a partnership with Virginia Tech in order to provide educational history classes. The Town of Christiansburg provided \$10,000 for this project.

A-FY-10-40
CHRISTIANSBURG INSTITUTE
TRANSFER FROM GENERAL CONTINGENCIES

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

| | | |
|-----|-----------------------|-----------|
| 950 | General Contingencies | (\$2,000) |
|-----|-----------------------|-----------|

TO:

| | | |
|-----|--------------------------|---------|
| 910 | Other Agencies | \$2,000 |
| | Christiansburg Institute | |

Said resolution transfers appropriated funds from General Contingencies to the Christiansburg Institute to provide funding for their project to establish a history of the Christiansburg Institute in partnership with Virginia Tech.

The vote on the foregoing resolution was as follows:

AYE

Mary W. Biggs
James D. Politis
John A. Muffo
Gary D. Creed
William H. Brown
Doug Marrs
Annette S. Perkins

NAY

None

ADJOURNMENT

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously, the Board adjourned to Monday, September 28, 2009 at 6:00 p.m.

The vote on the foregoing resolution was as follows:

AYE

Gary D. Creed
William H. Brown
Mary W. Biggs
Doug Marrs
James D. Politis
John A. Muffo
Annette S. Perkins

NAY

None

The meeting adjourned at 9:25 p.m.

| | |
|-----------------------------|----------------------|
| APPROVED: _____ | ATTEST: _____ |
| Annette S. Perkins | F. Craig Meadows |
| Chair, Board of Supervisors | County Administrator |